

## UNITED STATES DISTRICT COURT

for the  
Southern District of OhioFILED  
RICHARD W. NAGEL  
CLERK OF COURT

1/19/23

In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

THE PERSON OF BROOKE ASHLIE MARTIN

Case No.

3:23-mj-17

U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
WEST. DIV. DAYTON

## APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A

located in the \_\_\_\_\_ Southen \_\_\_\_\_ District of \_\_\_\_\_ Ohio \_\_\_\_\_, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;  
☒ contraband, fruits of crime, or other items illegally possessed;  
☒ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section  
18 U.S.C. § 1001Offense Description  
Making false statements to a federal agent.

The application is based on these facts:

See attached affidavit.

- ☒ Continued on the attached sheet.  
☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



SA Kenneth Pitney, ATF  
Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by  
 \_\_\_\_\_ Telephone \_\_\_\_\_ (specify reliable electronic means).

Date: January 19, 2023

City and state: Dayton, Ohio

  
 Caroline H. Gentry  
 United States Magistrate Judge

Judge



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

IN THE MATTER OF THE SEARCH OF  
THE PERSON OF BROOKE ASHLIE  
MARTIN, A WHITE FEMALE, APPROX.  
HT: 5' 4", WT: 123 LBS, AS FURTHER  
DESCRIBED IN ATTACHMENT A

3:23-mj-17

Case No. \_\_\_\_\_

**AFFIDAVIT IN SUPPORT OF AN**  
**APPLICATION UNDER RULE 41 FOR A**  
**WARRANT TO SEARCH AND SEIZE**

I, KENNETH PITNEY, after being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant authorizing the examination of property, to wit: any and all electronic devices, to include cellular telephones, I-Phones, computers, etc. that may be found on the person, or in the immediate possession, control and custody of a Brooke Ashlie Martin, and the extraction from said property any and all electronically stored information and data as described in Attachment B.

2. I am a Special Agent of the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") and have been so employed since 2013. I am currently assigned to the Cincinnati Group I Field Office located in Cincinnati, Ohio. I previously graduated from the ATF Special Agent Basic Training, the Ohio State Highway Patrol Academy and the Federal Law Enforcement Training Center Criminal Investigators Training Program. I have previously participated in a wide-variety of criminal investigations, to include: investigations relating to the illegal possession of firearms, the illegal purchase of firearms, the illegal sale of firearms, the

illegal trafficking of firearms, the illegal possession of controlled substances and the illegal sale of narcotics.

3. The information contained in this affidavit is derived from my personal knowledge of the facts and circumstances of subject investigation, as well as other information received from other law enforcement personnel familiar with the investigation. Because this affidavit is submitted for the limited purpose of establishing probable cause to justify the issuance of the requested search warrant, I have not included every fact known to me relevant to subject investigation.

4. The applied-for warrant would authorize the forensic examination of any and all electronic devices that contain stored data as is (are) more particularly described in Attachment B.

#### **PROBABLE CAUSE**

5. During the course of subject investigation, I have conducted numerous witness and subject interviews. These interviews have provided me with certain credible information that support and establish the following facts contained in this affidavit.

6. On or about January 16, 2023, the Federal Bureau of Investigations (FBI) received a Threat to Life Complaint from persons identified to be Gerald Wildermuth Jr and Melissa Wildermuth of Gloversville, N.Y. The information they provided to the FBI concerned a purported threat made against their son Alexander Steven Gary HERNANDEZ who resides in the Dayton, Ohio-area. HERNANDEZ was previously the subject of a Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) criminal investigation which focused on his association with a shooting homicide involving a local Dayton-Ohio based gang identified as the Thug Riders Motorcycle Club (MC). The Thug Riders MC is known to be a violent organization



which has engaged in various illegal activities to include shootings, narcotics trafficking, firearms trafficking, extortion, and other violent acts. The Wildermuth's complaint alleged that HERNANDEZ' ex-girlfriend, a person identified as Brooke Ashlie MARTIN, apparently posted to her Facebook page and copies of various documents gleaned from ATF Reports of Investigation (ROIs) that concerned HERNANDEZ' and the various criminal activities of members of the Thug Riders MC. It is believed that said documents originated from a Federal Rule of Criminal Procedure 16 discovery packet federal prosecutors previously provided to Vincent P. Popp, Esq. , who is HERNANDEZ' Federal court appointed defense counsel in Case No. 3:22-cr-0001 which remains currently pending before the U.S. District Court for the Southern District of Ohio – Dayton Division. On October 26, 2022, HERNANDEZ pled guilty to a superseding bill of information in that case which alleged a single count of unlawful transfer of handgun ammunition to a juvenile in violation of 18 U.S.C. § 922(x)(1)(B). He is scheduled to be sentenced by U.S. District Judge Michael J. Newman on January 31, 2023. The Specific ATF ROIs in question were determined to be ROIs #2 and #3 in ATF case no. 773011-22-0022 captioned "HERNANDEZ, Alexander Steven Gary (Thug Riders)" (hereinafter referred to as "THE DOCUMENTS").

7. On or about January 17, 2023, the FBI Threat to Life Complaint was forwarded through law enforcement channels to your Affiant who served as the case agent in the original ATF investigation. Upon receipt and review of said complaint, I determined that that HERNANDEZ was presently incarcerated at the Montgomery County Jail due to a January 16, 2023 local state court arrested for violating a Temporary Protection Order (TPO) filed by MARTIN. Based upon his state court arrest, on January 17, 2023, U.S. Magistrate Judge Peter B.

Silvain, Jr. issued a Federal arrest warrant for HERNANDEZ based upon his violation of the terms of his Federal bond.

8. On January 17, 2023, I spoke with HERNANDEZ at the Montgomery County Jail. He informed me that he and MARTIN had previously cohabited in a local residence and had gotten into a domestic dispute in early November 2022. MARTIN is the biological mother of a child fathered by HERNANDEZ. During this time frame, MARTIN apparently discovered HERNANDEZ' discovery packet which contained copies of THE DOCUMENTS relating to his Federal case. HERNANDEZ further advised that MARTIN apparently took photos of individual pages of THE DOCUMENTS using her cell phone. HERNANDEZ further stated that between January 13, 2023 and January 16, 2023, MARTIN apparently forwarded copies of THE DOCUMENTS to various members of the Thug Riders MC and additionally posted copies of THE DOCUMENTS on her Facebook page.

9. On January 17, 2023, I conducted a recorded telephone interview of MARTIN. During this interview, I directly asked MARTIN if: (a) she had sent copies of THE DOCUMENTS to anyone and (b) if she had posted THE DOCUMENTS on Facebook. MARTIN answered in the negative to both questions. At this point, I advised MARTIN that lying to a federal agent about such actions could constitute a Federal crime. I thereupon asked if she wished to change her statement. MARTIN adamantly responded that she "would never do that to Alex". I concluded her interview and reiterated that she could call me if she wished to change her statement. MARTIN did later telephone me and continued to deny that she ever posted any of THE DOCUMENTS to Facebook or sent them to any third party.

10. On January 18, 2023, I obtained HERNANDEZ' cellphone together with his consent to search. Within the cellphone I located various screen shots of Facebook postings made by an account listed in the name of "Brooke Martin" which also bore MARTIN's profile photograph. The screen shots included photos of THE DOCUMENTS. In one of the posted photos of THE DOCUMENTS a female's hand with fingernails bearing red nail polish appeared. This female hand with painted red nails appears consistent with MARTIN's hand.

As to **BROOKE ASHLIE MARTIN** Utilizing a Cellular Telephone

11. In HERNANDEZ's prior federal criminal case, (Case No. 3:22-cr-0001) a forensic extraction of HERNANDEZ' cellphone was completed. A review of the details of this forensic extraction revealed that HERNANDEZ was known to have communicated with MARTIN via messaging apps and voice communications. On January 17, 2023, I contacted MARTIN at phone number 937-797-4808. On January 18, 2023, I reviewed certain stored telephone files on HERNANDEZ' current cellphone which revealed a recording of text and multimedia messages from the same phone number 937-797-4808. The said multimedia messages depict photographs of a letter written to "Brooke" which bear images of a female's hands purportedly with red nail polish. They appear to match those previously referenced photos of THE DOCUMENTS. (See Attachment "C").

12. Based on my prior law enforcement training and experience, I know that Facebook is an internet-based service with a mobile companion application (hereinafter referred to as an "app") which can be installed on mobile electronic devices with an internet connection. I further know that these apps can maintain copies of stored data posted using other apps with the same account. Therefore, any mobile device with the capability of an internet connection could



have the Facebook or Messenger apps installed allowing it to be used to upload photographs of THE DOCUMENTS.

13. Based on my prior law enforcement training and experience, I know that cell phone users typically maintain their cell phones on their persons or within an area of their immediate control. I also know from personal experience that in today's age it is typical for individuals to maintain and possess multiple active cellular phones at one time. I also know from personal experience that it is common for individuals to retain cellular phones they no longer currently use, which may continue to contain contents, stored data and otherwise relevant information to ongoing criminal investigations.

14. Based on my prior law enforcement training and experience, I believe that the aforementioned facts establish probable cause to believe that the MARTIN's cellphone or other mobile electronic device(s) found in her possession and/or immediate control and custody may contain relevant criminal evidence of violations of Federal law to wit: 18 U.S.C. § 1001.

#### **CONCLUSION**

15. I submit that this affidavit establishes the necessary probable cause for the issuance of a search warrant authorizing the search, seizure and forensic examination of any and all electronic devices to include Cellphones as more fully described in Attachment B as may be found on MARTIN's person as more fully described in Attachment A.

Respectfully submitted,



KENNETH PITNEY

Special Agent

Bureau of Alcohol, Tobacco, Firearms, and  
Explosives

Subscribed and sworn to before me by reliable electronic means (telephone)  
on January 19, 2023.

  
Caroline H. Gentry  
United States Magistrate Judge



**ATTACHMENT A**

The property to be searched is described as follows (see photograph):

**Brooke Ashlie Martin**  
White Female, Ht: 5' 4", Wt: 123 LBS

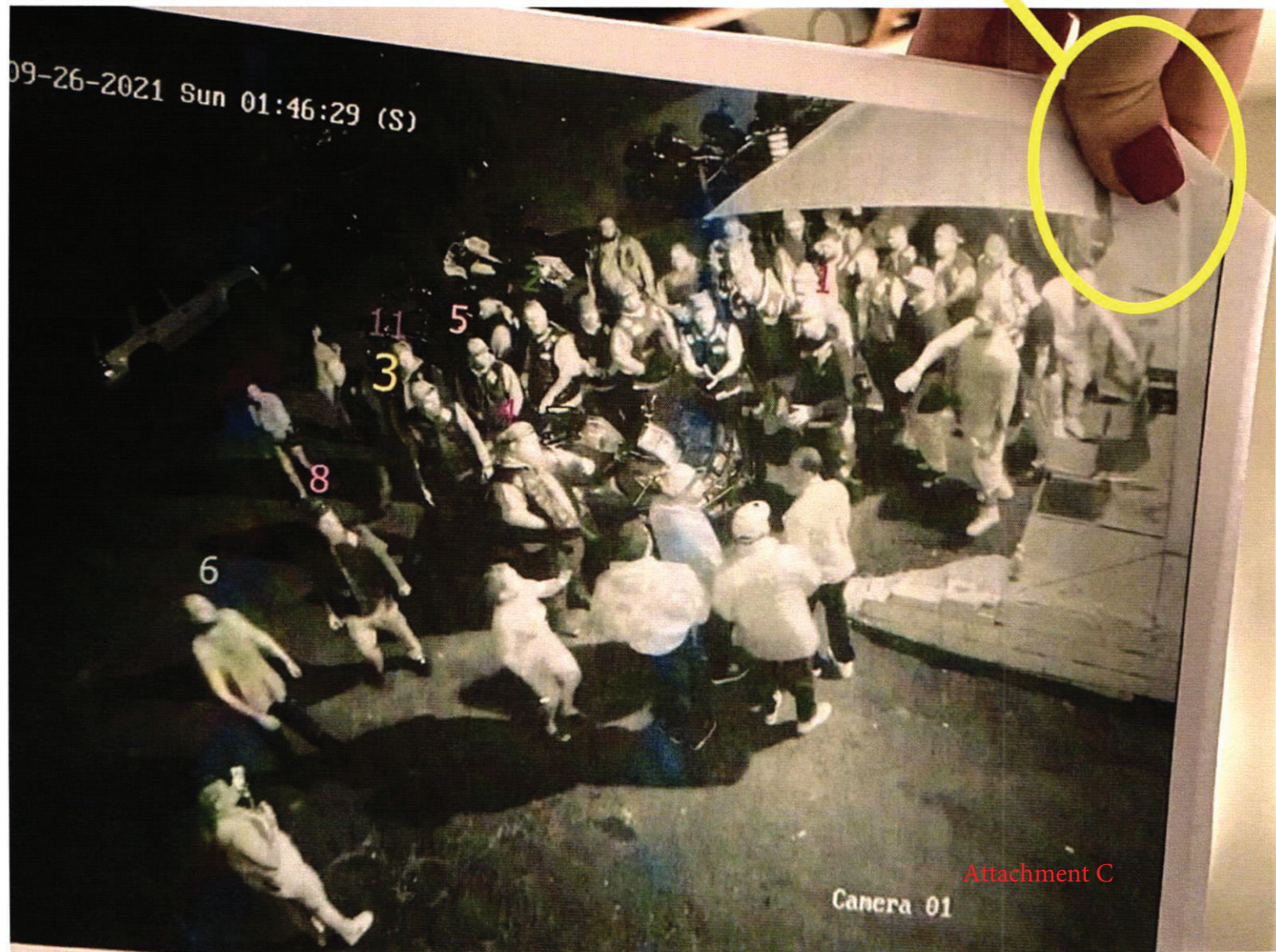
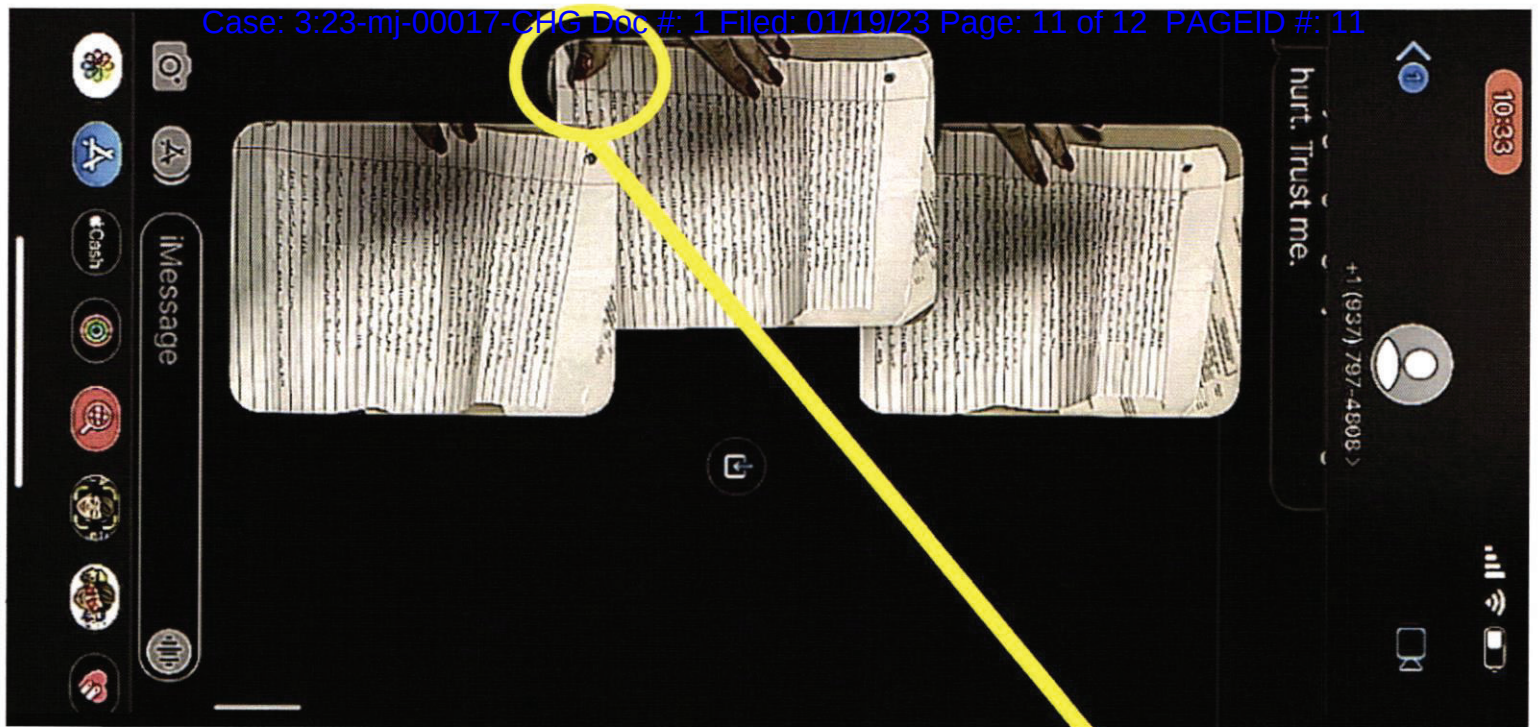


**ATTACHMENT B**

*Property to be Seized*

Based on the foregoing, the following items found to be on the person of BROOKE ASHLIE MARTIN, and/or within her immediate possession, control and custody to include: cellular telephones, I-Phones, I-Pads, computers, mobile electronic storage media and any other mobile electronic devices.





Attachment C



5:29

LTE



Brooke Martin



See all friends

## Posts

Photos



Brooke Martin



1h ·



That is all. I win.



2



Like



Comment



Share



Brooke Martin



6d ·



Caleb Bell

Dec 12, 2022 ·

Y'all be judging people who  
overcame situations that woulda  
broke y'all into pieces.



13

1 comment 3 shares



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